



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/802,346

03/17/2004

Bruce Joseph Maliner

72157 CCD

3638

7590  
Christopher C. Dunham  
c/o Cooper & Dunham LLP  
1185 Ave. of the Americas  
New York, NY 10036

01/11/2008

EXAMINER

DAVIS, CASSANDRA HOPE

ART UNIT

PAPER NUMBER

3611

MAIL DATE

DELIVERY MODE

01/11/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/802,346

Applicant(s)

MALINER ET AL.

Examiner

Cassandra Davis

Art Unit

3611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 9/12/2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-25 is/are pending in the application.
- 4a) Of the above claim(s) 5 and 20-25 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 8 and 11-17 is/are rejected.
- 7) ☒ Claim(s) 4, 6, 7, 9, 18 and 19 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 3, 8, 11-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haines, U. S. Patent 4,312,523 in view of Indrelie, US 5,153,042 and Squier, US 2003/0180490.
3. With respect to claim 1, Haines teaches a label 14 for a container 10, comprising an elongated strip of flexible material having first and second ends, inner and outer surfaces and upper and lower edges; a first quantity of adhesive 16 applied to the inner surface of the strip adjacent to the first end; a second quantity of adhesive 28 applied to the inner surface of the strip adjacent to the second end; a third quantity of adhesive 26 applied to the inner surface of the strip in a region spaced from the first and second ends; and a tear/perforation line 32 extending laterally across the strip between the upper and lower edges. The tear line 32 is positioned adjacent to the third quantity of adhesive between the third quantity of adhesive and

the second end of the strip. An adhesive-free area 24 on the inner surface between the tear line 32 and the second quantity of adhesive 28.

4. Haines does not teach a label with a tamper evident structure.

5. Indrelie teaches label with a tamper evident structure. Squier teaches a metallized patch labels comprising a first skin layer 12 of polypropylene or polyethylene and a first cavitating agent, a core layer 14 comprising a polypropylene and a second cavitating agent, and cold glue 22 applied to the first side of the first skin layer 12. The layer taught by Squier is attached to a container 26. See paragraph 0075. It would have been obvious to one having ordinary skill in the art at the time this invention was made construct the label taught by Haines with the tamper evident structure as taught by Indrelie to provide a means to determine when and if the label has been tampered with.

6. With respect to claim 3, Squier teaches a cold glue or bonding layer 22.

7. With respect to claim 8, the first and third adhesive is an elongated strip extending from the upper to the lower edges.

8. With respect to claims 11-14, the adhesive free area 24 supports indicia.

9. With respect to claim 15, the second adhesive 28 is smaller in area than the third adhesive.

10. Claims 3 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haines in view of Indrelie and Squier as applied to claim 1 above, and further in view of Kirk, U. S. Patent 6,332,631. Kirk teaches a label 20 for a container comprising a base material 46 made from paper, plastic, or other suitable stock material. The underside of the base material is coated with a permanent adhesive 48 and label information 40 is printed over the adhesive and a latex base barrier coating 50 covers the information. Kirk also teaches a polypropylene laminate 54 adhered to the top of the base material 46.

***Allowable Subject Matter***

11. Claims 4, 6, 7, 9, 18, and 19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Election/Restrictions***

12. Claims 5 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species/invention, there

being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 6/26/06.


***Response to Arguments***

13. Applicant's arguments with respect to claim 1 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cassandra Davis whose telephone number is 571-272-6642. The examiner can normally be reached on Monday-Friday 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on 571-272-6651. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Cassandra Davis  
Primary Examiner  
Art Unit 3611

CD  
December 10, 2007